

MOUND COTTON WOLLAN & GREENGRASS LLP

COUNSELLORS AT LAW
ONE NEW YORK PLAZA
NEW YORK, NY 10004-1901

NEW YORK, NY
FLORHAM PARK, NJ
GARDEN CITY, NY
SAN FRANCISCO, CA
FORT LAUDERDALE, FL
HOUSTON, TX

(212) 804-4200
FAX: (212) 344-8066
WWW.MOUNDCOTTON.COM

MICHAEL R KOBLENZ
PARTNER
212-804-4247
MKoblentz@moundcotton.com

September 27, 2021

VIA ECF

Honorable John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Dr. David S. Field v. Exponential Wealth Inc., Ryan Murnane, Ryan Michaels, Krystalynne Murnane, and Nolan Bennett*
Case No.: 1:21-cv-01990 (JGK)
Our File No.: 3994.001

Dear Judge Koeltl:

We represent Plaintiff Dr. David S. Field in the above-referenced action. We write pursuant to Your Honor's Individual Rule II.B. and Local Civil Rule 37.2 to respectfully request a pre-motion discovery conference to move to compel Defendant Ryan Murnane to respond to our discovery demands. We have made several good faith attempts to resolve this discovery dispute without judicial intervention, but Defendants' counsel has stopped responding to our correspondence. In addition, we respectfully request leave to amend the Verified Complaint to add Christopher Paul as a Defendant because the named Defendant Nolan Bennett is apparently an alias for Christopher Paul.

On August 12, 2021, Plaintiff served document requests and interrogatories on Defendant Ryan Murnane, the only Defendant that had then appeared in this action. Responses were due on September 13, 2021, and no extensions of time had been sought by Defendants' counsel. On September 14, 2021, we emailed counsel to advise that Mr. Murnane's discovery responses were due the day prior. Defendants' counsel responded that he was on trial, and that he would follow up with his client and "have responses to you by the end of the week." However, nothing was produced by the end of the week.

On September 20, we emailed counsel to request that responses to our discovery requests be provided. Counsel had represented that we would have them by the end of the prior week. Counsel failed to respond to that email.

MOUND COTTON WOLLAN & GREENGRASS LLP

Honorable John G. Koeltl
September 27, 2021
Page 2

On September 23, we again emailed counsel to request that responses be provided as soon as possible so that we can move this case forward. Again, counsel did not respond to our email.

On September 24, the parties served their initial disclosures. In their initial disclosures, Defendants listed a number of documents that would also be responsive to Plaintiff's demands. It remains unclear why such documents have yet to be produced, or why counsel has failed to provide any explanation for Defendant's delay. Defendant's dilatory tactics are not only delaying this case, but unnecessarily protracting this litigation and causing Plaintiff to incur additional expenses.

During the June 10 conference call with the Court, Mr. Murnane represented that he had three rare Coins that Plaintiff purchased from Defendants in October 2019, despite the fact that Plaintiff was told by Defendants that these Coins had been sold on his behalf at a profit. As the Verified Complaint details, Plaintiff purchased three Coins in October 2019 with unit prices of \$525,000, \$690,000, and \$992,000, for a total purchase price of **\$2,207,000**. Plaintiff had \$1,861,600 in assets and credits in his account with Defendants that were applied against the purchase price, and Plaintiff also sent Defendants an additional \$90,400. Defendants admit these facts in their Answers.

In June 2021, Mr. Murnane sent three Coins to me. We had the Coins appraised by John Rothans, Chief Procurement Officer at United States Money Reserve and a coin expert, who valued the Coins at \$1250, \$250, and \$575, for a total of **\$2,075**. (Attached as **Exhibit A**). This is a far cry from the **\$2,207,000** purchase price of the Coins that Plaintiff purchased.

Thus, discovery and open communication are necessary to learn what happened with these Coins. In an effort to resolve this case, we have repeatedly requested a full accounting from Defendants of Plaintiff's funds. Nothing has been provided to date. It has become apparent that Defendants cannot account for Plaintiff's investment of \$1,420,800, or the additional funds he earned as a result of sales of the Coins he purchased with Defendants, resulting in a total of \$2,885,852. Defendants' fraudulent activities will be further borne out during discovery.

It has also recently been brought to our attention that Defendant Nolan Bennett, whose name is listed on several documents that were attached as Exhibits to the Verified Complaint, is actually an alias for Christopher Paul, a name that is not listed on any documents given by Defendants to Plaintiff. Although documents were served on "Nolan Bennett," he has not yet appeared in this action. Mr. Christopher Paul's name is listed on Defendants' initial disclosures that were served on September 24. Plaintiff respectfully requests leave to amend the Verified Complaint to also add "Christopher Paul" as a named Defendant.

Thus, we respectfully request a pre-motion discovery conference as soon as possible, and leave to amend the Verified Complaint to name Christopher Paul as a Defendant.

MOUND COTTON WOLLAN & GREENGRASS LLP

Honorable John G. Koeltl
September 27, 2021
Page 3

Defendants' counsel has advised us that he will be out of the office from October 4 through October 25 so discovery responses and documents should be produced to us before his leave.

Respectfully submitted,

MOUND COTTON WOLLAN &
GREENGRASS LLP

By: /s/ Michael R. Koblenz
Michael R. Koblenz, Esq. (MK-0888)
Sara F. Lilling, Esq. (SL-3969)
One New York Plaza
New York, NY 10004
Tel: (212) 804-4200
Fax: (212) 344-8066
Email: mkoblenz@moundcotton.com
Email: slilling@moundcotton.com

cc: Michael DeSantis (via ECF)
Dr. David S. Field (via email)

Plaintiff's letter-motion for a conference (ECF No. 43 (the "Letter-Motion")) is GRANTED. A telephone conference is scheduled for **Friday, October 1, 2021 at 3:00 pm** on the Court's conference line to discuss Plaintiff's requests for discovery and to amend his pleading. The parties are directed to call: (866) 390-1828; access code: 380-9799, at the scheduled time. Per the Court's Individual Practices, any response to the Letter-Motion shall be filed by **September 30, 2021**.

The Clerk of Court is respectfully directed to close ECF No. 43.

SO ORDERED 9/28/2021


SARAH L. CAVE
United States Magistrate Judge